



GP 2819

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
Daniel J. Bolda et al.

Serial No.: 09/675,858

Filed: September 29, 2000

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Group Art Unit: 2819

Examiner: Jeanglaude, G

Atty. Docket: ALBR:0067--1 ROOM  
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Assistant Commissioner  
for Patents  
Washington, D.C. 20231

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I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on the date below:

12/11/01

Date

*Synda Howell*  
Lynda Howell

**AMENDMENT AND RESPONSE TO  
OFFICE ACTION MAILED SEPTEMBER 13, 2001**

Dear Sir:

Applicants respectfully traverse the rejections as summarized below, and request reconsideration of the claims in view of the remarks made herein.

**Rejections Under 35 U.S.C. § 101**

The Examiner rejected claims 59 - 69 as claiming the same invention as that of claims 1-9 of prior U.S. Patent No. 6,252,529. However, claims 59-69 in the present application do not claim the same invention or have the same scope as the invention claimed in the prior patent.

In the Office Action, the Examiner stated that claims 59-69 claim the same invention as recited in claims 1-9 of prior U.S. Patent No. 6,252,529. Applicants submit that the Applicants' claims 59 - 69 of the present application do not claim the same invention as the cited claims. To claim the same invention as claim 1 of prior U.S. Patent No. 6,252,529, the Examiner would need to combine claims 59, 60, and 61 in the present Application. As presently constructed, these claims are not combined together as a single claim in the present application. Claim 60 depends from claim 59, but does not include the subject matter of claim 61. Likewise, claim 61 depends from claim 59, but does not include the subject matter of claim 60. Furthermore, the dependent claims 62, 65, 67, 68, 69 depend from claim 59, which does not include the subject matter claimed in claims 60 or 61. Claim 63 and 66 depend from claims 62 and 65 respectively, and have different scopes for the same reasons. Thus, no combination of the Applicants' claims 59-69 covers the same invention as the invention in claims 1-9 of prior U.S. Patent No. 6,252,529. For these reasons, the Applicants respectfully request the Examiner to withdraw the rejections of claims 59-69 under 35 U.S.C. § 101.

#### **Rejections on Nonstatutory Double Patenting**

The Examiner has rejected claims 32 - 58 under the judicially created doctrine of obviousness type double patenting over claims 1-31 of prior U.S. Patent No. 6,252,529. The Applicants will consider filing a terminal disclaimer to overcome this rejection, but would prefer to hold such decision in abeyance pending resolution of the statutory double patenting issue discussed above.

**Conclusion**

In view of the above remarks and amendments set forth above, Applicants respectfully request reconsideration of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Date: 12/11/2001

Respectfully submitted,

Pg  
Patrick S. Yoder  
Reg. No. 37,479  
Fletcher, Yoder & Van Someren  
P.O. Box 692289  
Houston, TX 77269-2289  
(281) 970-4545

**CORRESPONDENCE ADDRESS**  
ALLEN-BRADLEY COMPANY, LLC  
Patent Department/704P Floor 8 T-29  
1201 South Second Street  
Milwaukee, Wisconsin 53204  
Attention: Alexander M. Gerasimow  
Phone: (414) 382-2000